

**REMARKS**

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page(s) is/are captioned **"Version with Markings to Show Changes Made."**

**I. Restriction**

In the above referenced Office action, the Examiner set forth a restriction requirement for the following groups of claims:

I. Claims 1 and 2, drawn to an isolated nucleic acid, SEQ ID NO:5, which is a regulatory sequence for a cyclin D1 promoter.

II. Claims 1 and 2, drawn to an isolated nucleic acid, SEQ ID NO:6, which is a regulatory sequence for a cyclin D1 promoter.

III. Claims 1 and 2, drawn to an isolated nucleic acid, SEQ ID NO:8, which is a regulatory sequence for a cyclin D1 promoter.

IV. Claims 3 and 4, drawn to an isolated nucleic acid, SEQ ID NO:12, which is a regulatory sequence for a CD40L promoter.

V. Claims 3 and 4, drawn to an isolated nucleic acid, SEQ ID NO:13, which is a regulatory sequence for a CD40L promoter.

VI. Claims 3 and 4, drawn to an isolated nucleic acid, SEQ ID NO:14, which is a regulatory sequence for a CD40L promoter.

VII. Claims 3 and 4, drawn to an isolated nucleic acid, SEQ ID NO:15, which is a regulatory sequence for a CD40L promoter.

VIII. Claims 5, 6 and 7, drawn to an isolated nucleic acid, SEQ ID NO:20, which is a regulatory sequence for a HBV core promoter.

IX. Claims 5, 6 and 7, drawn to an isolated nucleic acid, SEQ ID NO:21, which is a regulatory sequence for a HBV core promoter.

X. Claims 5, 6 and 8, drawn to an isolated nucleic acid, SEQ ID NO:23, which is a regulatory sequence for a HBV preS1 promoter.

XI. Claims 5, 6 and 8, drawn to an isolated nucleic acid, SEQ ID NO:24, which is a regulatory sequence for a HBV preS1 promoter, classified in class 536, subclass 23.1.

XII. Claims 5, 6 and 9, drawn to an isolated nucleic acid, SEQ ID NO:26, which is a regulatory sequence for a HBV X promoter.

XIII. Claims 5, 6 and 9, drawn to an isolated nucleic acid, SEQ ID NO:27, which is a regulatory sequence for a HBV X promoter.

XIV. Claims 5, 6 and 9, drawn to an isolated nucleic acid, SEQ ID NO:28, which is a regulatory sequence for a HBV X promoter.

XV. Claims 10 and 11, drawn to an isolated nucleic acid, SEQ ID NO:32, which is a regulatory sequence for a vancomycin-resistant enterococci (VRE) promoter.

XVI. Claims 10 and 11, drawn to an isolated nucleic acid, SEQ ID NO:33, which is a regulatory sequence for a vancomycin-resistant enterococci (VRE) promoter.

XVII. Claims 10 and 11, drawn to an isolated nucleic acid, SEQ ID NO:34, which is a regulatory sequence for a vancomycin-resistant enterococci (VRE) promoter.

XVIII. Claims 12 and 13, drawn to an isolated nucleic acid, SEQ ID NO:64, which is a regulatory sequence for an androgen receptor (AR) promoter.

XIX. Claims 12 and 13, drawn to an isolated nucleic acid, SEQ ID NO:65, which is a regulatory sequence for an androgen receptor (AR) promoter.

XX. Claims 12 and 13, drawn to an isolated nucleic acid, SEQ ID NO:66, which is a regulatory sequence for an androgen receptor (AR) promoter.

XXI. Claims 14 and 15, drawn to an isolated nucleic acid, SEQ ID NO:70, which is a regulatory sequence for a HER2 promoter.

XXII. Claims 14 and 15, drawn to an isolated nucleic acid, SEQ ID NO:71, which is a regulatory sequence for a HER2 promoter.

XXIII. Claims 14 and 15, drawn to an isolated nucleic acid, SEQ ID NO:72, which is a regulatory, sequence for a HER2 promoter.

XXIV. Claims 16 and 17, drawn to an isolated nucleic acid, SEQ ID NO:77, which is a regulatory sequence for a beta lactamase (Bla) promoter.

XXV. Claims 16 and 17, drawn to an isolated nucleic acid, SEQ ID NO:78, which is a regulatory sequence for a beta lactamase (Bla) promoter.

XXVI. Claim 25, drawn to a method of modulating expression with a compound which binds to a promoter regulatory sequence.

In response, Applicants elect Group I, claims 1 and 2 drawn to an isolated nucleic acid SEQ ID No:5, without traverse.

## II. Amendments

Non-elected claims 3-25 stand canceled.

Claim 2 is amended to remove matter drawn to a non-elected invention. It is Applicant's understanding that remaining pending claims 1-2 read on the elected Group I.

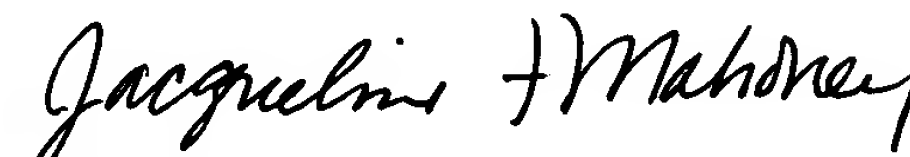
Applicants note that claim 1 links the inventions of Groups I-III. Upon allowance of the linking claim, Applicants request withdrawal of the restriction requirement as to the linked inventions. Applicants note that any claims depending from or otherwise including all the limitations of the allowable linking claim will be entitled to examination in the instant application.

No new matter has been added by way of these amendments.

No fees are believed due with this communication. However, the Commissioner is hereby authorized and requested to charge any deficiency in fees herein to Deposit Account No. 50-2207.

If in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is encouraged to call the undersigned at (650) 838-4410.

Respectfully submitted,



Jacqueline F. Mahoney  
Registration No. 48,390

Date: 2/11/03

**Correspondence Address:**

Customer No. 22918

Phone: (650) 838-4300

**Version with Markings to Show Changes Made**

**In the claims:**

2. The regulatory promoter sequence of claim 1, wherein said sequence is [selected from the group consisting of] SEQ ID NO.:5[, SEQ ID NO.:6 and SEQ ID NO.:8].